

**STATE OF VERMONT
DEPARTMENT OF BANKING, INSURANCE, SECURITIES
AND HEALTH CARE ADMINISTRATION**

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| In Re: |) | |
| |) | |
| 8 V.S.A. Chapter 73 |) | Docket No. 09-097-B |
| Licensed Lender Statute |) | |
| Act No. 29 (H.171) 2009 |) | |
| |) | |

**ORDER REGARDING EFFECTIVE DATE
OF DELETION OF LICENSED LENDER STATUTE EXEMPTION FOR
NONPROFIT 501(c) ORGANIZATIONS THAT CONDUCT THEIR LENDING
ACTIVITIES THROUGH REVOLVING LOAN FUNDS**

Background

1. Act 29 modified the following exemption from the Licensed Lender Statute, which exemption was formerly found at 8 V.S.A. §2201(c)(8) (the "Nonprofit Revolving Loan Fund Exemption") by adding the following italicized language:

(c) No license shall be required of:

. . .

(8) lenders that conduct their lending activities, *other than residential mortgage loan activities*, through revolving loan funds, that are nonprofit organizations exempt from taxation under section 501(c) of the Internal Revenue Code, and that register with the commissioner of economic development under section 690a of Title 10

[As amended, this exemption is now codified at 8 V.S.A. §2201(d)(9).]

2. The effect of the modification to the Nonprofit Revolving Loan Fund Exemption is that nonprofit organizations operating revolving housing loan funds using grant money (for example, grant money from the Department of Housing & Community Affairs) would need to be licensed as a lender under Chapter 73 as of July 1, 2009 in order to continue making residential mortgage loans to low income homeowners.

3. Pursuant to Act 29, Sec. 3 (b), the commissioner may extend the date for compliance with any provision of Act 29 provided the extension is permitted or approved by the federal Department of Housing and Urban Development ("HUD").
4. Act 29 modified the Licensed Lender Statute, 8 V.S.A. Chapter 73, to bring Chapter 73 into compliance with the federal Secure and Fair Enforcement for Mortgage Licensing Act (the "SAFE Act").
5. Under the SAFE Act HUD is responsible for determining whether a state has a law or regulatory system in place that meets the requirements of the SAFE Act. See, SAFE Act §1508.
6. Both the SAFE Act and HUD commentary permit a state to delay licensing lenders such as nonprofit 501(c) organizations that conduct their lending activities through revolving loan funds.
7. Delaying the effective date for the removal of an exemption from Chapter 73 is consistent with the SAFE Act and HUD guidelines, and is fair and reasonable because of the particular circumstances involved in the transactions that would otherwise be affected by the removal of the exemption, provided the delay does not extend the effective date for licensing beyond July 31, 2010.
8. Given the current difficult circumstances in the residential mortgage market, and the number of homeowners potentially facing foreclosure or having difficulty making their mortgage payments, it is appropriate to delay the effective date of the modification to the Nonprofit Revolving Loan Fund Exemption to enable these nonprofit 501(c) organizations to continue assisting homeowners while they transition to becoming a licensed lender under Chapter 73.

Order

9. Based upon the foregoing and other factors deemed relevant to the commissioner, it is hereby ordered that:
 - a. The effective date of compliance with the requirement of Act 29 that nonprofit 501(c) organizations that conduct their residential mortgage lending activities through revolving loan funds be licensed as lenders is hereby delayed until December 30, 2009.
 - b. Prior to and including December 30, 2009, nonprofit 501(c) organizations that conduct their residential mortgage lending activities through revolving loan funds, as described in former 8 V.S.A. §2201(c)(8), do not need to obtain a lender license to make residential mortgage loans.

c. Beginning December 31, 2009 nonprofit 501(c) organizations that conduct their residential mortgage lending activities through revolving loan funds must have obtained a lender license or otherwise qualify for an exemption from Chapter 73 in order to continue the practice of making residential mortgage loans in Vermont.

Dated at Montpelier, Vermont this 23th day of July, 2009.

_____/s/_____
Paulette Thabault
Commissioner of Banking, Insurance, Securities
and Health Care Administration